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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/082,492 | 02/22/2002 | Gene Samson | 271/231 | 4234 |
| 28075 | 7590 | 03/14/2005 | EXAMINER | |
| CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420 | | | ROBERT, EDUARDO C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3732 | |

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | |
|------------------------------|-------------------|---------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/082,492 | SAMSON ET AL. |
| | Examiner | Art Unit |
| | Eduardo C. Robert | 3732 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 January 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 21-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 February 2002 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | <ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____ |
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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

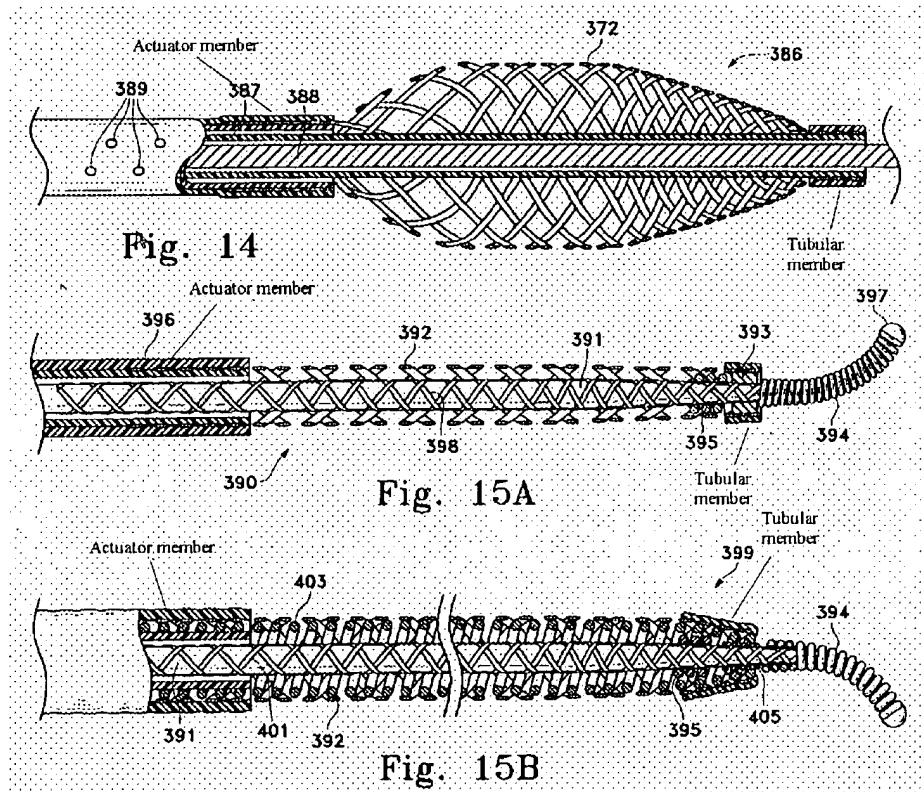
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21, 22 and 24-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Engelson et al. (U.S. Patent No. 5,972,019 cited by applicant).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Engelson et al. disclose a device comprising a core wire, e.g. 388 or 391 with a coil tip coupled to a distal end of the core wire (see for example Figures 14, 15A, 15B). The device further comprises a cage, e.g. 372 or 392. The cage has a distal end, proximal end, first deployment shape, and a second expanded shape. The first and second shapes being different from each other. The device further has a tubular member (see Figures 14, 15A, and 15B)

coupled to a distal end of the cage assembly and the tubular member surrounds a distal portion of the core wire proximal to the coil tip.



The device also has an actuator member, as shown above, that have a first position and a second position, and is located proximally to the cage and substantially coaxial about the core wire. When the actuator member is in a first position the cage is in a deployment shape and when the actuator member is in the other position, the cage is in the second expanded shape. The core wire is freely moveably axially through the cage assembly (see col. 13, lines 43-44). The tubular member can be considered a bushing. The device can further include an inner coil, e.g. 401, surrounding the core wire within the cage assembly. The inner coil inner coil does not pass distally on the core wire.

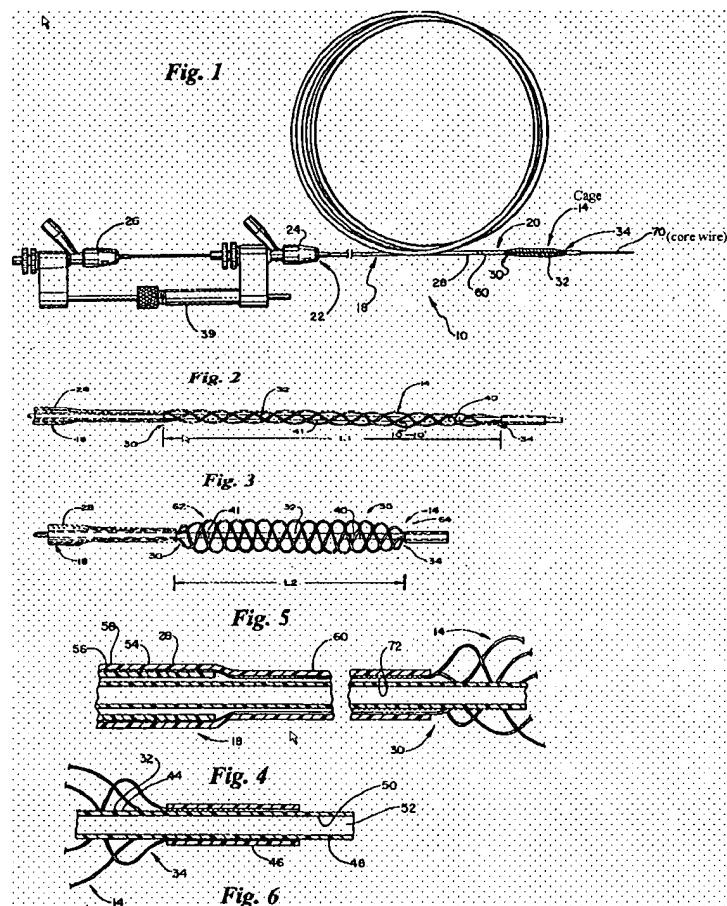
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmaltz et al. (U.S. Patent No. 5,449,372 cited by applicant) in view of Crittenden et al. (U.S. Patent No. 4,719,924).

Schmaltz et al. disclose a device comprising a core wire or guidewire 70, a cage 14, a tubular member 46, and an actuator element 18 (see Figures 1-5 below). The cage 14 has a distal end, proximal end, first deployment shape, and second expanded shape, wherein the shapes are different from each other (see Figures 2 and 3 below). The tubular member 46 is coupled to the distal end of the cage assembly and it would surround a distal portion of the core wire or guidewire (see Figures 1 and 6 below). The actuator element has first and second positions and it is located proximal to the cage and it is substantially coaxial about the core wire (see Figure 1). The core wire or guidewire is freely movable axially through the cage (see col. 8, lines 30-35). The core wire or guidewire may be a standard guidewire. The tubular member is considered a bushing and is made of a thermoplastic material, e.g. polyolefin (see col. 7, lines 15-17). The device further includes inner coils or bands, e.g. 40 and 41, made from radiopaque materials (see col. 6, lines 32-34 and 59-64). The inner coils or bands do not pass distally on the core wire.



Schmaltz et al. disclose the claimed invention except for the core wire or guidewire having a coil tip at its distal end. Crittenden et al. disclose a core wire or guidewire with a coil tip at its distal end (see Figure 2). The core wire or guidewire is steerable wherein the coil tip can be adjusted without requiring removal of the guidewire from the patient (see abstract). It would have been obvious to one skill in the art at the time the invention was made to use with the device of Schmaltz et al. a core wire or guidewire that is steerable instead of one that is not in view of Crittenden et al., so that the guide wire can be adjusted without requiring removal of the guidewire when it is inserted into the patient.

Response to Arguments

Applicant's arguments with respect to claims 21-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

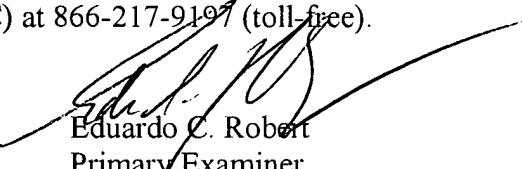
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo C. Robert whose telephone number is 571-272-4719. The examiner can normally be reached on Monday-Friday, 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 571-273-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll-free).



Eduardo C. Robert
Primary Examiner
Art Unit 3732

E.C.R.